

Office of the Attorney General State of Texas

DAN MORALES
ATTORNEY GENERAL

October 14, 1998

Ms. Rosalinda Fierro
Paralegal- Records Division
Office of the District Attorney
P.O. Box 1748
Austin, Texas 78767

OR98-2427

Dear Ms. Fierro:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 118791.

Travis County (the "county") received a request for information relating to "a complaint by G.L. Brown against Largent Parks, Jr. and/or AmeriCorp Travel Management Inc." You contend that the requested information is excepted from disclosure under sections 552.101, 552.108, and 552.110 of the Government Code. We have considered the exceptions you claim and have reviewed the documents at issue.

Since you raised section 552.110 on behalf of AmeriCorp Travel Management Inc. ("AmeriCorp"), we notified AmeriCorp about the request for information. See Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining that statutory predecessor to Gov't Code § 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in Open Records Act in certain circumstances). We did not receive a response from AmeriCorp, and therefore, we have no basis to conclude that the information at issue is excepted from disclosure under section 552.110. See Gov't Code § 552.110 (protects trade secrets and commercial and financial information from disclosure); Open Records Decision Nos. 639 at 4 (1996) (to prevent disclosure of commercial or financial information, party must show

¹You indicate that several of the submitted documents (exhibit D) are "unconnected to the investigation" about which the requestor is seeking information. We note that the county is not required to provide the requestor with documents that are not responsive to his request.

by specific factual or evidentiary material, not conclusory or generalized allegations, that it actually faces competition and that substantial competitive injury would likely result from disclosure), 552 at 5 (1990) (party must establish prima facie case that information is trade secret), 542 at 3 (1990). Accordingly, we conclude that the county may not withhold any information from disclosure under section 552.110.

Section 552.108(a)(2) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication." You inform us that the documents at issue relate to a completed investigation that did not result in conviction or deferred adjudication. You indicate that the district attorney's office terminated the investigation and did not proceed to trial due to lack of evidence. Based on your representations, we conclude that section 552.108(a)(2) is applicable to the documents at issue.

You acknowledge that court records and front page offense report information cannot be withheld from disclosure under section 552.108. See Star Telegram, Inc. v. Walker, 834 S.W.2d 54, 57 (Tex. 1992) (documents filed with court generally considered public); Houston Chronicle Publ'g Co. v. City of Houston, 531 S.W.2d 177 (Tex. Civ. App.-Houston [14th Dist.] 1975), writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976) (information normally found on front page of offense report generally considered public). You may, however, withhold the remaining information at issue from disclosure under section 552.108(a)(2).

Because we are able to resolve this matter under section 552.108, we need not address your other arguments against disclosure. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly.

Karen E. Hattaway

Assistant Attorney General Open Records Division

KEH/ch

Ref: ID# 118791

Enclosures: Submitted documents

cc: Mr. E.G. Morris

Morris & Florey 704 West 9th Street Austin, Texas 78701 (w/o enclosures)